

APPEAL NO. 041953  
FILED SEPTEMBER 28, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 14, 2004. The hearing officer resolved the disputed issue by deciding that the appellant's (claimant) impairment rating (IR) is 14%. The claimant appealed, disputing the determination of the 14% IR. The appeal file does not contain a response from the respondent (carrier).

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_; that the claimant reached maximum medical improvement on the statutory date of July 8, 2001, as certified by the designated doctor; and that the Texas Workers' Compensation Commission (Commission)-appointed designated doctor is Dr. P. The claimant disputes the IR assessed by Dr. P arguing that the 16% IR assessed by Dr. F should be determined to be her IR because Dr. F was more familiar with her case. Dr. P assessed a 14% IR under the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association (AMA Guides), comprised of 10% under Table 49 for single level disc surgery and 4% for range of motion. Dr. F contended that it was more appropriate to use Category (IV)(B) under Table 49 rather than Category (II)(E). In response to a letter of clarification Dr. P stated that the claimant's surgery was to treat discogenic pain and that the claimant would appropriately be placed in Category (II)(E).

Section 408.125(c) provides that the report of a Commission-selected designated doctor shall have presumptive weight on the issue of IR, and that the Commission shall base its determination on such report, unless the great weight of other medical evidence is to the contrary. Whether the great weight of the other medical evidence was contrary to the opinion of the designated doctor is basically a factual determination. Texas Workers' Compensation Commission Appeal No. 93459, decided July 15, 1993. The hearing officer reviewed the record and decided what facts were established. The hearing officer considered the conflicting medical opinions regarding the amount of impairment. We conclude that the hearing officer's determination regarding IR is supported by the record and is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSEL RAY OLIVER, PRESIDENT  
221 WEST 6TH STREET, SUITE 300  
AUSTIN, TEXAS 78701-3403.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Veronica L. Ruberto  
Appeals Judge

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Edward Vilano  
Appeals Judge